



INTERIOR BOARD OF INDIAN APPEALS

Estate of Ernest Wilkinson, Jr.

41 IBIA 280 (10/04/2005)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

ESTATE OF ERNEST WILKINSON, JR. : Order Approving Settlement
: Agreement and Dismissing
: Appeal
:
: Docket No. IBIA 05-45
:
: October 4, 2005

Wilbur D. Wilkinson (Appellant) sought review of a December 20, 2004, Order Denying Petition for Rehearing entered by Indian Probate Judge George D. Tah-Bone in the estate of his father, Ernest Wilkinson, Jr. (Decedent), deceased Arikara Indian of the Three Affiliated Tribes, Probate No. GP-301-0074. Subsequently, at Appellant's request, the Board suspended briefing in this case in order to permit him to explore the possibility of a settlement.

On July 20, 2005, the Board received from Appellant a settlement agreement, dated July 13, 2005, executed by Appellant, Charles D. Wilkinson, and Virgil D. Wilkinson. Charles and Virgil Wilkinson executed the settlement as the only two named beneficiaries under Decedent's 1976 will, which was approved by Judge Tah-Bone. See Sept. 30, 2004, Order Determining Heirs, Approving Will, and Decree of Distribution. Appellant executed the settlement as the sole alleged beneficiary under a 1997 "lost" will of Decedent, which was disapproved by Judge Tah-Bone. Id. Under the terms of the settlement agreement, Appellant, Charles D. Wilkinson, and Virgil D. Wilkinson would each receive a one-third share of Decedent's estate. Appellant requested the Board to approve the settlement agreement.

On July 22, 2005, the Board allowed potentially interested parties to respond to Appellant's request for the Board to approve the settlement. 1/

The Board received no responses.

1/ None of Decedent's other children were alleged to have been named as beneficiaries in Decedent's 1997 "lost will," nor did any of them seek rehearing or appeal the denial of rehearing. Therefore, while allowing responses to the proposed settlement, the Board also required that any party filing such a response would need to show standing to challenge the settlement.

The Board has reviewed the probate record and the settlement agreement and finds that approval of the agreement is appropriate and satisfies the conditions of 43 C.F.R. § 4.207.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. 4.1, the settlement agreement is approved and this appeal is dismissed. The Bureau of Indian Affairs is directed to distribute Decedent's estate in accordance with Section I of the settlement agreement.

I concur:

// original signed
Steven K. Linscheid
Chief Administrative Judge

// original signed
Katherine J. Barton
Acting Administrative Judge